



# WASHOE COUNTY

"Dedicated To Excellence in Public Service"

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CM/ACM VS  
Finance DN  
DA ✓  
Risk Mgt. PE  
HR N/A  
Comptroller MS

## STAFF REPORT

BOARD MEETING DATE: December 8, 2015

**DATE:** November 12, 2015  
**TO:** Board of County Commissioners  
**FROM:** Vahid Behmaram, Water Management Planner Coordinator,  
Community Services Department, 954-4647, [vbehmaram@washoecounty.us](mailto:vbehmaram@washoecounty.us),  
**THROUGH:** Dwayne Smith, P.E., Division Director, Engineering & Capital Projects,  
Community Services Department, 328-2043, [desmith@washoecounty.us](mailto:desmith@washoecounty.us)  
**SUBJECT:** Approve Amendment to Water Rights Deed between Washoe County and  
Utilities, Inc. of Nevada. (Commission District 5.)

### SUMMARY

On April 22, 2008, the Board of County Commissioners (Board) approved and the Chairman executed a Water Rights Deed, Document No. 3644845 on file with the Washoe County Recorder's Office. This deed conveyed to Utilities, Inc. of Nevada, a total of 40.29 acre-feet of ground water rights from Permit 65056. Whereas, the deed contained restrictions which limits the use of said water rights to 90 residential lots within the then proposed Woodland Village Phase 17. Phase 17 of the Woodland Village is not and will not be built in the foreseeable future, requiring an amendment to allocate the water rights to Phase 18.

Washoe County Strategic Objective supported by this item: Stewardship of our Community

### PREVIOUS ACTION

On April 22, 2008, the Board approved and the Chairman executed a Water Rights Deed, Document No. 3644845 on file with the Washoe County Recorder's Office.

### BACKGROUND

On April 22, 2008, the Board approved and the Chairman executed a Water Rights Deed, Document No. 3644845 on file with the Washoe County Recorder's Office. This deed conveyed to Utilities, Inc. of Nevada, a total of 40.29 acre-feet of ground water rights from Permit 65056. Whereas, the deed contained restrictions which limits the use of said water rights to 90 residential lots within the then proposed Woodland Village Phase 17. Whereas, Woodland Village Phase 17 was never finalized, and will not be in the foreseeable future, thus causing the water rights contained and described within the deed unusable for any other development. The amendment herein, substitutes 32 lots within Woodland Village Phase 18 for the 90 lots in Phase 17. This amendment also allocates 29.04 acre-feet of said water rights to Phase 18, with the remaining 11.25 acre-feet unrestricted and available for use on future phases of Woodland Village Subdivision.

AGENDA ITEM # Lo.H.4.

**FISCAL IMPACT**

There is no fiscal impact associated with this correction deed.

**RECOMMENDATION**

It is recommended the Board of County Commissioners approve Amendment to Water Rights Deed between Washoe County and Utilities, Inc. of Nevada.

**POSSIBLE MOTION**

Should the Board agree with staff's recommendation, a possible motion would be: "Move to approve Amendment to Water Rights Deed between Washoe County and Utilities, Inc. of Nevada."

APN: Not Applicable (NRS 111.312 (2)  
(document relating exclusively to  
water rights)).

When recorded, return to:  
Utilities, Inc. of Nevada  
3670 Grant Drive, Suite 104  
Reno, Nevada 89509

### AMENDMENT TO WATER RIGHTS DEED

This Amendment to Water Rights Deed is made this 21<sup>st</sup> day of October, 2015 by **Washoe County**, a political subdivision of the State of Nevada, and **Utilities, Inc. of Nevada**, a Nevada corporation.

#### RECITALS

1. WHEREAS, Washoe County, as GRANTOR, and Utilities, Inc. of Nevada, as GRANTEE, caused to be recorded the Water Rights Deed on April 29, 2008, as Document No. 3644845 of the Official Records of Washoe County, State of Nevada (the "Deed").
2. WHEREAS, the Deed contained certain restrictions pursuant to the Settlement Agreement of the Parties dated on or about July 26, 2005 in case number CV03-0499, Second Judicial District Court, Washoe County, Nevada (the "Restrictions").
3. WHEREAS, the Restrictions applied to the real property consisting of water rights (the "Water Rights") described as follows:

A portion of water rights permit 65056, on file with the Nevada State Engineer, being 40.29 acre-feet annually together with the proportionate share of the diversion rate thereof.

4. WHEREAS, the Water Rights (40.29 acre-feet annually) were to be used to support Municipal Water Service to the real property described in the "will serve" letter attached as Exhibit 1 to the Deed.
5. WHEREAS, Washoe County and Utilities, Inc. of Nevada, desire to amend Exhibit 1 to the Deed, by replacing the "will serve" letter attached as Exhibit 1 to the Deed (allocating 40.29 acre-feet annually), with the "will serve" letter attached hereto as **Exhibit 2** (allocating 29.04 acre-feet annually), with the balance (11.25 acre-feet annually) remaining available to support a future "will serve" letter.

NOW THEREFORE, Grantor and Grantee hereby amend the Deed by replacing the "will serve" letter attached as Exhibit 1 to the Deed (allocating 40.29 acre-feet annually), with the "will serve" letter attached hereto as **Exhibit 2** (allocating 29.04 acre-feet annually), with the balance (11.25 acre-feet annually) remaining available to support a future "will serve" letter.

Save and except as modified hereby, the Deed remains unmodified and in full force and effect.

**GRANTOR:**  
**WASHOE COUNTY**

By: \_\_\_\_\_  
Marsha Berkbigler, Chair  
Washoe County Board of  
Commissioners

**GRANTEE:**  
**UTILITIES, INC. OF NEVADA**

By: Wendolyn S. Barnett  
Wendolyn S.W. Barnett, President

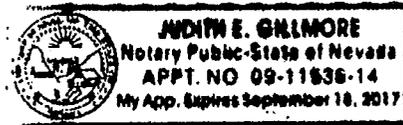
STATE OF NEVADA )  
 ) ss.  
COUNTY OF WASHOE )

On this \_\_\_\_\_ day of October, 2015, before me, a Notary Public, personally appeared Marsha Berkgigler, personally known to me (or proven to me on the basis of satisfactory evidence) to be the person who executed the within instrument as Chairman of the Washoe County Board of Commissioners, on behalf of said political subdivision of the State of Nevada therein named and acknowledged to me that the County executed it.

\_\_\_\_\_  
Notary Public

STATE OF NEVADA )  
 ) ss.  
COUNTY OF WASHOE )

On this 21<sup>st</sup> day of October, 2015, this Water Rights Deed was acknowledged before me, a Notary Public, by Wendolyn S.W. Barnett, as President, on behalf of Utilities, Inc. of Nevada.



*Judith E. Gilmore*  
Notary Public

# EXHIBIT 1



March 7, 2008

Tracy Taylor, P.E.  
 Department of Water Resources  
 901 S. Stewart St. Suite 2002  
 Carson City, Nv. 89701

RE: Will Serve Letter for 90 Lots in the Woodland Village Subdivision, Phase 17, Located within the South ½ and the Northeast ¼ of Section 9, Township 21 North, Range 18 East, MDM

Dear Mr. Taylor:

This letter advises the Nevada Department of Conservation and Natural Resources, Division of Water Resources ("DWR") that Woodland Village, LLC ("Woodland Village") has delivered deeds conveying 440.0 acre-feet annually (afa) under Permit #65056 to Utilities, Inc. of Nevada ("UIN"). UIN is using the following calculation for single-family residential lots for phases of the Woodland Village subdivision where a final map has not been recorded. That calculation is as follows:

$$\frac{1}{1.1 + (10,000/\text{Lot Size})^*}$$

\*(This same calculation is contained in Truckee Meadows Water Authority ("TMWA") Rule #7). Woodland Village has requested that UIN allocate 40.29 AFA (as calculated using the above formula) to Woodland Village phase 17 as follows:

Phase	No. of single-family units (ERU's)	Tariff Duty per Unit	Total afa Required Under Tariff	Total afa Conveyed to UIN	Permit No.
Middle School	87	0.57	49.59	50.0	65056
Phase 14	110	0.57	62.7	62.7	65056
Phase 15	91	TMWA Rule #7	40.48 per TMWA Rule #7	40.48	65056
Phase 16	73	TMWA Rule #7	33.67 per TMWA Rule #7	33.67	65056
YMCA Building	6		3.03	3.03	65056
Phase 17	90	TMWA Rule #7	40.29 per TMWA Rule #7	40.29	65056
Phases 18 - 24		TMWA Rule #7	210.24	209.83	65056
Total		TMWA Rule #7	440.0	440.0	65056

Previous Will Serve letters were issued as follows: Cold Springs Middle School – May 12, 2005, Woodland Village phase 14 – May 12, 2005, Woodland Village phase 15 – July 20, 2006, Woodland Village phase 16 – June 12, 2007, and the YMCA building – August 6, 2007.

The standard lot size for the Woodland Village Subdivision, Phase 17, is approximately 1/6 acre. The construction of all water lines and appurtenance of the of the waterlines as well as the construction of any required new pumping facilities in the Long Valley basin (Basin 100A) required by Utilities, Inc. of Nevada will be the responsibility of Woodland Village North, LLC at their cost. If it should be proven that the actual water (under permit #65056) is not available to be withdrawn from the aquifer, then it will be the responsibility of Woodland Village North, LLC to find an alternate supply of water for their development. This alternate supply of water must then be dedicated to the utility for use in the Woodland Village subdivision. Utilities, Inc. of Nevada will inspect and approve all waterline and appurtenance of the waterlines, including the construction of a new well (pumping facilities). Upon receiving written certification from UIN's designated engineer, UIN will accept the infrastructure as

*Utilities, Inc. companies Utilities, Inc. of Nevada & Sky Ranch Water Service*

# EXHIBIT 1

● Page 2

March 7, 2008

part of the Utilities, Inc. of Nevada Public Water System. All water supply facilities will be dedicated to and become the property of Utilities, Inc. of Nevada unconditionally. All costs incurred by Utilities, Inc. of Nevada for the permitting of the water project improvements will be the responsibility of Woodland Village North, LLC.

The approved Master Plan for Utilities, Inc. of Nevada, Cold Springs 2000, Inc. and Lifestyle Homes, Inc. reserves water rights for 791+/- lots in the Woodland Village Subdivision at 440.0 acre-feet per year from permit #65056. Currently, Utilities, Inc. of Nevada has committed by previous "Will Serve Letters" drinking water services to 367 ERU's (Cold Springs Middle School (87 ERU's), phase 14 (110 ERU's), phase 15 (91 ERU's), phase 16 (73 ERU's), and the YMCA building (6 ERU's) including irrigation requirements for common areas. With this "Will Serve Letter" certifying Woodland Village phase 17, Woodland Village North, LLC has 210.24 acre-feet of water remaining for future development in the Woodland Village Subdivision (planned phases 18 - 24) under permit #65056.

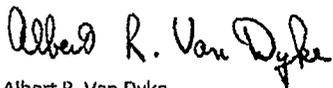
UIN confirms that the Property is within its certificated service territory. UIN is willing to provide centralized domestic water service to the Property.

This "Will Serve Letter" is contingent upon the completion of the deed restriction procedure set forth in that certain Settlement Agreement and Mutual Release, entered into on or about July 26, 2005, in the case entitled Woodland Village Phase 11, LLC, et al. v. Washoe County and Utilities, Inc. of Nevada, 2<sup>nd</sup> Jud. Dist. Ct. Case CV 03-04999. Under that deed restriction procedure (agreed to by the County to satisfy the purpose and policies of Article 422 as it relates to water rights to be used by UIN to serve new development for which the County requires compliance with Article 422), in cases where an owner or developer has dedicated or deeded water rights to support a project to UIN, then UIN will convey the required water rights by deed to the County, which water rights the County will then reconvey to UIN by way of a deed containing specified restrictions.

This letter will expire in two (2) years from this date if construction has not commenced on Woodland Village phase 17.

If you have any questions, please call me at (775) 337-1001.

Sincerely,



Albert R. Van Dyke  
Northern Area Manager

Cc: Washoe County Engineering Department  
Washoe County Dept. of Water Resources  
Washoe County District Health Department  
Washoe County Truckee Meadows Fire District  
Washoe County Community Development  
Public Utilities Commission of Nevada  
Nevada Division of Environmental Protection  
Chilton Engineering / Bill Nisbet, P.E.  
Brown & Caldwell Engineering / Chuck Zimmerman, P.E.  
Paul Burris / Regional Vice President, Utilities, Inc.  
Wendy Wentz / Regional Director, Utilities, Inc.  
Robert J. Lissner / Woodland Village North, LLC  
William McKean / Lionel, Sawyer, & Collins  
File

# EXHIBIT 2



May 5, 2014

Jason King, P.E.  
 Department of Water Resources  
 901 S. Stewart St. Suite 2002  
 Carson City, NV 89701

**RE: Will Serve Letter for 32 Lots in the Woodland Village Subdivision, Phase 18, Located within the Southeast ¼ of Section 9 and the Northwest ¼ of Section 15, Township 21 North, Range 18 East, MDM**

Dear Mr. King:

This letter advises the Nevada Department of Conservation and Natural Resources, Division of Water Resources ("DWR") that Woodland Village, LLC ("Woodland Village") has delivered deeds conveying 440.0 acre-feet annually (afa) under Permit #65056 to Utilities, Inc. of Nevada ("UIN"). UIN is using the following calculation for single-family residential lots for phases of the Woodland Village subdivision where a final map has not been recorded. That calculation is as follows:

$$\frac{1}{1.1 + (10,000/\text{Lot Size})^*}$$

\*(This same calculation is contained in Truckee Meadows Water Authority ("TMWA") Rule #7). Woodland Village has requested that UIN allocate 29.04 AFA (as calculated using the above formula) to Woodland Village phase 18 as follows:

Phase	No. of single-family units (ERU's)	Tariff Duty per Unit	Total afa Required Under Tariff	Total afa Conveyed to UIN	Permit No.
Middle School	87	0.57	49.59	50.0	65056
Phase 14	110	0.57	62.7	62.7	65056
Phase 15	91	TMWA Rule #7	40.48 per TMWA Rule #7	40.48	65056
Phase 16	73	TMWA Rule #7	33.67 per TMWA Rule #7	33.67	65056
YMCA Building	6		3.03	3.03	65056

*Utilities, Inc. companies Utilities, Inc. of Nevada & Sky Ranch Water Service*

# EXHIBIT 2

Phase 17	90	TMWA Rule #7	40.29 per TMWA Rule #7	40.29	65056
Phase 18	32	TMWA Rule #7	29.04 per TMWA Rule #7	29.04	65056
Phases 19 - 24		TMWA Rule #7	181.20	180.79	65056
<b>Total</b>		TMWA Rule #7	<b>440.0</b>	<b>440.0</b>	<b>65056</b>

Previous Will Serve letters were issued as follows: Cold Springs Middle School – May 12, 2005, Woodland Village phase 14 – May 12, 2005, Woodland Village phase 15 – July 20, 2006, Woodland Village phase 16 – June 12, 2007, the YMCA building – August 6, 2007, and Woodland Village phase 17 – March 7, 2008. A previous Will Serve letter for phase 18 was issued on February 10, 2010 but was rescinded on June 10, 2010 at the request of the developer. This Will Serve letter supersedes and replaces any previously issued Will Serve letters for this phase of the development.

The standard lot size for the Woodland Village Subdivision, Phase 18, is approximately 0.20 acre. The construction of all water lines and appurtenance of the of the waterlines as well as the construction of any required new pumping facilities in the Long Valley basin (Basin 100A) required by Utilities, Inc. of Nevada will be the responsibility of Woodland Village North, LLC at their cost. If it should be proven that the actual water (under permit #65056) is not available to be withdrawn from the aquifer, then it will be the responsibility of Woodland Village North, LLC to find an alternate supply of water for their development. This alternate supply of water must then be dedicated to the utility for use in the Woodland Village subdivision. Utilities, Inc. of Nevada will inspect and approve all waterline and appurtenance of the waterlines. Upon receiving written certification from UIN’s designated engineer, UIN will accept the infrastructure as part of the Utilities, Inc. of Nevada Public Water System. All water supply facilities will be dedicated to and become the property of Utilities, Inc. of Nevada unconditionally upon the issuance of a Letter of Acceptance by UIN. All Line Extension Facilities, facilities, improvements, and real property dedicated to Utility shall be free and clear of liens and encumbrances. Applicant shall provide documentation to Utility’s satisfaction demonstrating the cost of the facilities and that facilities, improvements, and real property are free and clear of all liens and encumbrances as well as a Bill of Sale. Such documentation may include, but is not limited to, invoices, UCC Litigation Search documentation, lien waivers, and releases from contractors, subcontractors, and vendors for materials, equipment, suppliers, and construction of Line Extension Facilities.

Applicant shall convey to Utility or provide by recorded subdivision plats, in either case at no cost or expense to Utility, such easements or rights-of-way within the Property for the Facilities and off-site interconnections and the use, operation and maintenance thereof as Utility shall reasonably require for the performance of Utility’s obligations under this Agreement. All easements and rights-of-way shall be in a form satisfactory to Utility. All costs incurred by Utilities, Inc. of Nevada for the permitting of the water project improvements will be the responsibility of Woodland Village North, LLC.

The approved Master Plan for Utilities, Inc. of Nevada, Cold Springs 2000, Inc., and Lifestyle Homes, Inc. reserves water rights for 791+/- lots in the Woodland Village Subdivision at 440.0 acre-feet per year from permit #65056. Currently, Utilities, Inc. of Nevada has committed by previous “Will Serve Letters” drinking water services to 457 ERU’s (Cold Springs Middle School (87 ERU’s), phase 14 (110 ERU’s), phase 15 (91 ERU’s), phase 16 (73 ERU’s), the YMCA building (6 ERU’s), phase 17 (90 ERU’s) including irrigation requirements for common areas. With this “Will Serve Letter” certifying Woodland Village phase 18, Woodland Village North, LLC has 180.79 acre-feet of

## EXHIBIT 2

May 5, 2014

water remaining for future development in the Woodland Village Subdivision (planned phases 19 – 24) under permit #65056.

UIN confirms that the Property is within its certificated service territory. UIN agrees to provide the aforementioned parcel(s) water service in accordance with the terms and conditions of UIN's Tariffs as approved as of the date of this agreement by the Public Utilities Commission of Nevada and any subsequent agreements and/or any tariff changes approved by the Commission prior to acceptance of the facilities necessary to serve as agreed in this Will Serve Letter by UIN.

This "Will Serve Letter" is contingent upon the completion of the deed restriction procedure set forth in that certain Settlement Agreement and Mutual Release, entered into on or about July 26, 2005, in the case entitled Woodland Village Phase 11, LLC, et al. v. Washoe County and Utilities, Inc. of Nevada, 2<sup>nd</sup> Judicial District Court Case CV 03-04999. Under that deed restriction procedure (agreed to by the County to satisfy the purpose and policies of Article 422 as it relates to water rights to be used by UIN to serve new development for which the County requires compliance with Article 422), in cases where an owner or developer has dedicated or deeded water rights to support a project to UIN, then UIN will convey the required water rights by deed to the County, which water rights the County will then re-convey to UIN by way of a deed containing specified restrictions.

This letter will expire in two (2) years from this date if construction has not commenced on Woodland Village phase 18.

If you have any questions, please call me at (775) 337-1001.

Sincerely,



Wendy Barnett  
President / Utilities, Inc. / West

Cc: Washoe County Engineering Department  
Washoe County Dept. of Water Resources  
Washoe County District Health Department  
Washoe County Truckee Meadows Fire District  
Washoe County Community Development  
Public Utilities Commission of Nevada  
Nevada Division of Environmental Protection  
Farr West Engineering / Chris Facque, P.E.  
Chilton Engineering / Bill Nisbet, P.E.  
Lumos & Associates Engineering / Mike Hardy, P.E.  
Robert J. Lissner / Woodland Village North, LLC  
Summit Engineering / Colin Hayes, P.E.  
William McKean / Lionel, Sawyer, & Collins  
File